Freedom of Information Policy and Complaints Procedure

<table>
<thead>
<tr>
<th>Responsible Officer</th>
<th>Ben Bennett, Business Planning &amp; Resources Director</th>
</tr>
</thead>
<tbody>
<tr>
<td>Author</td>
<td>Corporate Office</td>
</tr>
<tr>
<td>Date effective from</td>
<td>January 2005</td>
</tr>
<tr>
<td>Date last amended</td>
<td>August 2017</td>
</tr>
<tr>
<td>Review date</td>
<td>August 2020</td>
</tr>
</tbody>
</table>
### Version control table

<table>
<thead>
<tr>
<th>Version</th>
<th>Date</th>
<th>Author</th>
<th>Replaces</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.0</td>
<td>October 2013</td>
<td>Corporate office &amp; enquiry handling team</td>
<td>Freedom of Information Policy 2005 and Freedom of Information Complaints policy</td>
<td></td>
</tr>
<tr>
<td>3.0</td>
<td>August 2017</td>
<td>Corporate Office</td>
<td>Freedom of Information Policy and Complaints Procedure Version 2.0</td>
<td>Policy reformatted, duplicated content removed. Section relating to offences removed – this is to form part of an internal procedure document for NICE staff.</td>
</tr>
</tbody>
</table>
Introduction

1. The Freedom of Information (FoI) Act 2000 provides public access to information held by public authorities.

2. Under the Act, anyone can make a request in writing for recorded information held by or on behalf of NICE. NICE must provide the information within 20 working days, unless one of the exemptions within the Act applies. In some circumstances an additional 20 working days may be permitted to consider the public interest test.

Scope

3. This policy sets out how NICE will:

- deal with FoI requests
- publish certain information about NICE activities (publication scheme)
- manage complaints about our handling of FoI requests

4. The policy does not apply to requests for individuals’ own personal data under the Data Protection Act 1998, or requests for the re-use of NICE content under the Re-use of Public Sector Information Regulations.

Responsibilities

5. The enquiry handling team are responsible for managing and responding to FoI requests. They liaise with teams across NICE to ensure that requests are dealt with in accordance with the Act.

6. All staff are responsible for ensuring requests for information that fall under the scope of the Act are sent to the enquiry handling team as soon as they receive them.

7. The Data Protection and Information Governance Manager and Data Protection Officer is the corporate lead for FoI which includes developing policies, reviewing complaints, maintaining the publication scheme and liaising with the Information Commissioner’s Office (ICO).

8. The Associate Director, Corporate Office is responsible for responding to all complaints including those relating to requests under the Freedom of Information Act.

9. The procurement team is responsible for ensuring that all contracts with third parties include relevant clauses in relation to their responsibilities under the Act.
Publication scheme

10. NICE maintains a publication scheme listing categories of information we are obliged to publish. The scheme is available on the NICE website and maintained in accordance with the Act.

How requests are handled

11. The enquiry handling team manages FoI requests in accordance with the Code of Practice issued under section 45 of the Act.

12. The dedicated routes for information requests are:

- Email: nice@nice.org.uk

- Post:
  The enquiry handling team
  National Institute for Health and Care Excellence
  Level 1A
  City Tower
  Piccadilly Plaza
  Manchester
  M1 4BT

13. Requests for information must:

- be in writing
- include the real name of the requester
- include a valid address for correspondence (an email address is valid)
- describe the information requested
- be received in a legible form

14. FoI requests do not have to make any direct reference to the Act, or be the sole or main theme of the requester's correspondence.

15. The enquiry handling team will usually acknowledge receipt of requests within two working days.

16. NICE will respond to requests for information within 20 working days starting from the day following receipt of the request. If the response is likely to take longer than this, for example, because NICE needs to consider the public interest test, the enquiry handling team will advise the requester and keep them informed of progress.

17. If NICE is unclear on any point in the request, the enquiry handling team will contact the requester to ask for clarification. If clarification is not provided
within 20 working days, NICE will assume that the information is no longer required and the request will be closed.

18. If NICE does not hold the information requested but believes another public body may hold the information, it will advise the applicant to contact the other public authority directly. Alternatively NICE may transfer the request to that public authority and inform the applicant accordingly.

Exemptions

19. The Act contains a number of exemptions that allow NICE to withhold information from a requester in certain cases, for example where the information is for confidential material or where disclosure may conflict with the data protection principles.

20. Some exemptions require consideration of whether or not the disclosure is in the public interest. The public interest test means NICE must consider whether the public interest in withholding information outweighs the public interest in disclosing the information.

21. When information is withheld the requester will be told which exemptions have been applied and why.

Consultation with third parties

22. If disclosure of the requested information is likely to affect the interests of third parties, NICE may contact those persons before determining whether or not an exemption applies.

Charges

23. NICE does not charge for complying with FoI requests. However, in line with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, NICE is not obliged to comply with a request if it is estimated that the cost of compliance would exceed £450 (the ‘appropriate limit’).

24. Where a request is estimated to exceed the ‘appropriate limit’, the enquiry handling team will give the requester reasonable advice and assistance to change or narrow the request if this is possible.

Complaints procedure

25. If a requester is unhappy with the response to a request for information they can contact the enquiry handling team to see if the matter can be resolved informally. If a requester does not wish to do this or, if following the informal
discussion, a requester remains dissatisfied with the response, a formal complaint can be made.

26. Any expression of dissatisfaction with the handling of the initial request will be treated as a complaint.

27. Complaints should be made in writing within 20 working days of NICE’s response to an FoI request and sent to:

- Email: complaints@nice.org.uk
- Post: Associate Director, Corporate Office National Institute for Health and Care Excellence 10 Spring Gardens London SW1A 2BU

28. NICE will acknowledge complaints within five working days.

29. Complaints will be reviewed by the Corporate Office or two non-Executive Directors at the discretion of NICE depending on the nature of the complaint. A response will be sent by the Associate Director, Corporate Office within 20 working days. If the review is likely to take longer than 20 working days, for instance where there is a need to consider the public interest or due to the complexity of the case, NICE will write to the requester with a revised timescale at the earliest opportunity.

30. In all cases if the requester is not satisfied with the final decision they can appeal to the Information Commissioner’s Office at the following address:

The Information Commissioner’s Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF

Review

31. This policy will be reviewed every three years.

Related policies

- Data Protection policy
- General complaints policy and procedure
- Re-use of public sector information policy and complaints procedure
- Records management policy
- Policy on managing unreasonable or persistent enquirer contact